

Appl. No. 10/734,536
Docket No. 7858MD
Amdt. dated October 4, 2007
Reply to Office Action mailed on July 13, 2007
Customer No. 27752

REMARKS

Claim Status

Claim 1 is amended to delete reference to polyphosphonates or phosphonate-containing copolymers from the Markush group of polymers for use in the present invention. The claim now includes copolymers of phosphate-containing monomers or polymers with other specified monomers or polymers.

Method Claims 7 to 9 have previously been withdrawn as non-elected claims. However, Claim 7 has been amended to include all the limitations of Claim 1. Claims 8 and 9 depend from Claims 1 and 5 respectively.

No new matter is involved with the amendments to the claims. Consequently entry of these changes is believed to be in order and is respectfully requested.

Claims Rejection Under 35 U.S.C. §102(b)

Claims 1-2 and 4-6 have been rejected as being anticipated by Degenhardt et al. (US 4,877,603) or by Gaffar, et al. (US 5,032,386).

The claims as amended no longer include phosphonate-containing polymers. The polymers being claimed are phosphate-containing copolymers. Both the Degenhardt and Gaffar disclosures are concerned only with certain phosphonate polymers. There is absolutely no disclosure of the presently claimed phosphate polymers, and even less that these polymers would have the specified functionality of depositing a surface conditioning film onto teeth, that such deposited film would result in increased hydrophilicity of the tooth surface and would decrease pellicle film thickness and that such modification of teeth would provide consumer desirable clean teeth and smooth teeth perception that would last for extended periods of time.

Therefore, the Degenhardt and Gaffar citations do not apply to the present claims and the rejections under 35 U.S.C. §102(b) should be withdrawn.

Obviousness-Type Double Patenting Rejection

Submitted herewith is a terminal disclaimer to commonly-assigned US 6,821,507, which should overcome the obviousness-type double patenting rejection of Claim 1 over Claims 1, 3 and 4 of the '507 patent.

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Rejoining of Claims 7 to 9

Applicants respectfully request rejoining of method claims 7 to 9, which were previously withdrawn. As indicated by the Examiner, should the compositions of Claims 1 to 6 be found allowable, Claims 7 to 9 would be rejoined in accordance with the provisions of MPEP § 821.04, if the claims depend from or include all the limitations of the patentable compositions.

Applicants submit that the composition claims as amended are allowable and method Claims 7 to 9 should be rejoined.

CONCLUSION

Applicants have made an earnest effort to place their application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, acceptance of the request for continued examination, reconsideration of this application, entry of the amendments presented, withdrawal of the claims rejection under 35 USC §102(b), withdrawal of the restriction requirement and rejoining of method Claims 7 to 9, entry of the terminal disclaimer and withdrawal of the nonstatutory double-patenting rejection and allowance of all claims are respectfully requested.

The Examiner is respectfully invited to telephone the undersigned representative if she believes an interview might be useful to advance prosecution of this case.

Respectfully submitted,

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